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OFFICE OF PETITIONS

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WASHINGTON, DC 20044-4300

In re Application of :
Masato Okabe :
Application No. 08/428,325 : **DECISION ON PETITION**
Filed: April 25, 1995 :
Attorney Docket No. 2122-4028 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure respond to a Notice Under 37 CFR 1.251 – Pending Application mailed August 10, 2006. The Notice set a period to reply of three (3) months from the mail date of the Notice. Accordingly, the application became abandoned on November 10, 2006. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a copy of the documents required, (2) the petition fee of 1,620, and (3) a proper statement of unintentional delay¹.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center AU 2871 for appropriate action in the normal course of business on the reply received August 27, 2009.

A handwritten signature in black ink, appearing to read "Sherry D. Brinkley". The signature is written in a cursive, flowing style.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions